



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
Diane Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2308426
Applicant Name: Steve Johnston of Curtis Beattie and Associates
Address of Proposal: 2470 Westlake Avenue North

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for installation of metal siding to the western exterior of existing administrative office building. Project includes future installation of a 12 foot by 12 foot marquee at the western entrance of the building (to extend into the public right of way); and air conditioning units permitted under #2307125 (already installed).

The following Master Use Permit components are required:

Shoreline Substantial Development – to allow alteration of a building in the US environment.

SEPA - (SMC Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS
 ☒ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND DATA

Site & Vicinity

The subject site is located on the west side of Lake Union on Westlake Avenue North along the base of Queen Anne Hill. The subject 18,367 sq. ft. property is developed with a 2 story office building and pleasure boat moorage. The building is on top of a concrete deck which is on pilings over water.

Zoning on the property is Commercial 2 with a 40-foot height limit (C-2/40') and is designated as an Urban Stable (US) shoreline environment. The abutting properties are zoned C2-40 and are also in the US shoreline environment. Property to the north is developed with moorage and accessory buildings. Property to the south is developed with floating homes. Property to the west in the Westlake Avenue N. right of way is developed with sidewalk and public parking. Property farther west across Westlake Avenue N. is undeveloped.

Westlake Avenue North at this location is a four-lane major arterial serving properties along the western edge of Lake Union. The non-roadway portion of the right of way has been recently improved with pavement, sidewalk, public parking and landscaping.

Proposal

The proposal includes the installation of metal siding on the existing exterior exit balcony on the west side of the building and installation of a metal entry marquee partially in the right of way. No change of use, increase in floor area or in-water work is proposed.

Public Comment

No comment letters were received from the public during the comment period, which ended on February 6, 2004. One letter was received after the comment period ended in which the writer expressed concern about the un-screened mechanical equipment.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section [23.60.030](#) of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter [90.58](#) RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter [173-27](#) WAC*

Chapter [90.58](#) RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter [23.60](#). Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SSMP [23.60.004](#), because the site is located within the shoreline district and the cost of the project exceeds \$5000. The proposed construction is minor in scope in that most of the project improvements, increasing the height of the parapet, installing a marquee entry and modifying the exterior finish materials are considered substantial development but do not significantly affect the buildings impact on the shoreline environment. The proposed parapet/architectural feature on the roof edge is about 33 feet in length and increases the height of the building by 6.5 feet. The new parapet will not cast shadows or otherwise change the impacts the existing building already has on the shoreline environment. Likewise, the entry canopy or marquee proposed on the west side of the building is to be built over existing concrete so it will not have an affect on the shoreline or aquatic life. The new metal siding proposed to be installed over the existing skeleton of the building will increase the projection of the building walls by 2 or 3 inches which should have no perceptible affects on the shoreline or aquatic life. The subject application is consistent with the policies and procedures outlined in RCW [90.58](#).

Chapter [23.60](#) of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program”. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP [23.60.030](#) (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP [23.60.064](#)). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies cited in SSMP [23.60.004](#), and meets the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The subject property is classified as a waterfront lot (SSMP [23.60.924](#)) and is located within an Urban Stable (US) environment, as designated by the Seattle Shoreline Master Program. The principal use on this waterfront lot is administrative office and general retail sales and service. No change of use is requested with this application.

The proposed project must meet the standards of the underlying Commercial-2 zone, the development standards for the US shoreline environment (SSMP [23.60.630-642](#)) and the general development standards for all shoreline environments (SSMP [23.60.152](#)). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP [23.60.064](#)).

SSMP [23.60.630-642](#) – Development Standards for US Environments

All development must conform to the development standards in the US shoreline environment, as well as the underlying Commercial zone. In this case, the use and structure are considered non-conforming and do not meet all the development standards. SMC 23.60.122 generally allows non-conforming uses and structures to continue if the use or structure is not expanded in any manner that make the non-conformity worse. The office use is a permitted use in the C2 zone, but is prohibited as a ground-floor use in the US shoreline environment. However, the use is not changing or expanding in a manner to make the non-conformity worse. The structure meets most development standards, like height and public access but does not provide the required view corridor. The modifications to the structure do not make the non-conformity worse. In light of that, the intent of SSMP 23.60.630-642 is met.

SMC [23.60.152](#) - General Development Standards

These general standards apply to all uses in the shoreline environments. The standards require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. SSMP 23.60.152 sets forth the general development standards with which all uses must comply, including best management practices. The construction will be consistent with these development standards for the following reasons: a condition is imposed on this permit pursuant to SEPA authority, to ensure that care is taken by the responsible party to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. All construction activity will be done to minimize adverse impacts and protect the fish and wildlife habitat areas in the immediate vicinity.

WAC [173-27](#) establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW [90.58](#). It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the State's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter [23.60](#) is also consistency with WAC [173-27](#) and RCW [90.58](#).

The proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Conclusion

DPD can approve development requiring a Shoreline Substantial Development Permit only if the proposed development conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter [23.60](#), Seattle Shoreline Master Program.

The project as proposed meets the standards for non-conforming uses and structures in SMC 23.60.122 and 124. It also conforms to the general development standards, as well as the requirements of the underlying zone, and therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms to specific development standards of the underlying zone, the non-conforming standards, and having established that the use and development are allowed under the provisions of the Shoreline Master Program, the proposal is hereby approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

Granted.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 30, 2003. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SSMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to increased dust and other suspended air particulates during, construction; increased noise and vibration from construction operations and equipment; slightly increased traffic and parking demand from construction personnel traveling to and from the work site.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city.

It is anticipated that construction for this project will begin in spring 2004 and is expected to be minor and of short duration. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment. However, impacts associated with water quality warrant further discussion.

Water Quality

The proposed project does not involve any in-water construction. However, construction will occur on a building on pilings over-water and debris could enter the water during construction. Measures should be in place to prevent this from occurring and if it does a clean up/removal plan should be in place. Typically, the Stormwater, Grading and Drainage Code requires Best Management Practices for containment and clean up of spills of hazardous materials during demolition/construction of a project. In this instance, however, since this proposal would occur over water additional measures are necessary to insure adequate mitigation of the identified impacts. Therefore, pursuant to SEPA Water Quality Policies, the applicant must prepare and submit a Best Management Plan (BMP) that details the method of containment and removal of any structural debris or material that may enter Lake Union during construction. The Plan may be incorporated as construction notes on the final building permit plan sets.

Long-term Impacts

No long-term impacts are anticipated as a result of this proposal.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non Significance. The proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21.C.030 2c.

CONDITIONS – SEPA

The applicant/owner shall:

Prior to Issuance of a Building Permit

1. Submit a Best Management Plan that details the method of containment and removal of any debris or material that may enter Lake Union during construction. Said Plan shall be incorporated as construction notes on the final building permit plan sets.

Signature: (signature on file) Date: April 1, 2004
Jess Harris, AICP, Land Use Planner
Department Planning and Development